In the High Court of Punjab and Haryana at Chandigarh

C.R. No. 445 of 2006 (O&M)
Date of decision:14-12-2006

Haryana Vidyt Parsaran Nigam & Ors. .....Petitioners

Versus

Amar Nath .....Respondent

CORAM: Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr. Aman Chaudhary, Advocate, for the petitioners.
Mr. Veneet Sharma, Advocate, for the respondent.

VINOD K.SHARMA (ORAL)

The present revision petition has been filed against the order dated 1-09-2005 dismissing the appeal filed by the petitioners herein as time barred.

The appeal was filed by the petitioners herein after two years of expiry of the limitation period and the only ground taken for condonation of delay was that the delay has occurred due to procedural arrangements as the defendant-petitioners were to get permission from the authorities and case has to be routed through various departments and ,therefore, the delay was bound to occur. Thus, the delay caused was not intentional and, therefore, it deserved to be condoned. The learned Additional District Judge

dismissed the application by holding that the petitioners did not spell out any fact relevant to the exercise of jurisdiction to condone the delay and, therefore, came to the conclusion that there was no sufficient reason for condoning the delay. Accordingly, the Appellate Court dismissed the appeal being time barred.

Learned counsel for the petitioners contends that there was merit in the claim raised by the petitioners and, therefore, the Court was bound to decide the appeal on merit in view of the law laid down by the Hon'ble Supreme Court in the case of **State of Haryana Vs. Chandra Mani and others, AIR 1996 SC 1623.** The Hon'ble Supreme Court in this judgment has been pleased to lay down as under:-

> "When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to tale and keeping it on table for considerable time causing delay intentional or otherwise is a routine. Considerable

delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the Governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The Court should decide the matter on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-a-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the Courts or whether cases require adjustment and should authorise the officers take a decision or give appropriate permission for settlement. In the event of decision to file appeal needed prompt action should be pursued by the officer responsible to file the

appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants."

The reading of the said judgment shows that the Hon'ble Supreme Court has nowhere stated that the delay has to be condoned merely on merit of the case even though no sufficient cause was shown. Therefore the judgment relied upon by the counsel for the petitioners has no applicability to the facts of the present case. There is no error in exercise of jurisdiction which may call for interference by this Court.

Dismissed.

Dec. 14, 2006 **(VINOD K.SHARMA)**
'dls' **JUDGE**